

EXHIBIT 5

Deposition	Plaintiffs' Designation	Defendants' Corresponding Counter Designation	Reason that Defendants' Counter Designation Must be Considered According to Fed.R.Civ.P 32(a)(4)
Elmira Jane Cleaver, June 9, 2005	67:16-68:15	49:15-51:15	Plaintiffs' designation questions any research done by Cleaver prior to passing the resolution, and Defendants' counter designation shows that Cleaver testified to reading through <i>Of Pandas and People</i> prior to the resolution
	67:16-68:15, 69:3-6	53:1-8	Plaintiffs' designation asks Cleaver if she would be opposed to teachers mentioning intelligent design, and also questions Cleaver's ideas on different theories, and Defendants' designation speaks directly to Cleaver's thoughts on teaching multiple scientific theories to the students and her ideas on the theories
	67:25-68:16	54:10-25	Defendants' designation deals with what the board expected of the teachers, and with Cleaver's review of <i>Of Pandas and People</i> , and her understanding of intelligent design, in response to Plaintiffs' sections regarding Cleaver's discussions with other board members, and questions asked of Cleaver about her knowledge of intelligent design
	67:16-68:15	67:12-15	Defendants' designation is the 3 lines immediately preceding a section of the same discussion designated by Plaintiffs about Cleaver's knowledge of intelligent design

00045

1 Q. Have you ever looked at school board minutes
2 before?
3 A. No, sir.
4 Q. Okay. Having taken a second to look at the school
5 board minutes, do you recall now whether at that meeting
6 there was any discussion concerning either the --
7 A. That may have been the meeting -- it was either the
8 last meeting in June or else this meeting in July that Bert
9 Spahr was so upset. I don't really recall. Now that I
10 know -- I see this that I was there the 12th.
11 Q. Okay. That's fine. So, correct me if I'm -- if I
12 say anything incorrectly, just let me know. Let me just try
13 and put this back together. It sounds to me like your
14 recollection is that the last school board meeting you
15 attended prior to the October meeting was when Ms. Spahr
16 spoke her concerns?
17 A. That's when she was so upset.
18 Q. And other than that, you don't recall anything else
19 at any of these meetings prior to October?
20 A. No. That one was a little bit -- going a little
21 bit rough.
22 Q. What do you mean by, "going a little rough"?
23 A. Well, they got upset with each other, you know,
24 some of the -- Ms. Spahr's said her -- what she thought and
25 then some of the -- I know Alan Bonsell was upset with her

Jane Cleaver 6/9/05

Page 48

00046

1 because of the way that she spoke. But it was just a little
2 bit of commotion there. They just didn't get along too well.
3 Q. Do you remember how Mr. Bonsell responded?
4 A. No, I don't. I can't say the words that Mr.
5 Bonsell said. But I do know that anything that Mr. Bonsell
6 said, he thought everything through before he ever spoke.
7 Q. Do you recall what it was specifically about what
8 Ms. Spahr said that upset Mr. Bonsell?
9 A. She was terribly upset because she thought they
10 were not getting the new biology book, and Mr. Bonsell,
11 that's when he said he would have to look into it further
12 before he would give consent or we voted on this, would take
13 a vote on it, that he wanted to make sure we got the right
14 book.
15 Q. And by, "right book," were you aware of whether
16 there was discussions of using any other textbooks at that
17 time?
18 A. Not that I recall, not at that -- yes, there was.
19 On that July meeting, that is I think when that -- I think is
20 when the book of Pendas and People or whatever, getting
21 another book. And Ms. Spahr thought that she was going to
22 have to teach another theory or something like that. But Dr.
23 Nilzen and Alan both reassured her that they would not be
24 teaching the students any other theory.
25 Q. Had you at this time in the July meeting or

Jane Cleaver 6/9/05

Page 49

00047

1 whenever it was -- I understand that you're a little bit
2 unclear with which date, which is fine. At that time, were
3 you aware of a book entitled, Pendas and People?
4 A. Yes, sir.
5 Q. And how were you made aware of this book?
6 A. Because the -- I don't know how Mr. Buckingham got
7 this book, but that's how -- I had asked Mr. Buckingham if he
8 had the book, I would like to see it. And so he gave me the
9 book. And I did not read it page for page. But the book,
10 Pendas and People I felt was -- should not be taught or it
11 shouldn't be taught at all. But if a student wanted to
12 pursue another theory, that maybe it could be available, that
13 that student could look at that book but not be taught.
14 Q. How was it that you became aware that Mr.
15 Buckingham had this book, Pendas?
16 A. Because of -- it was through Mr. Buckingham that he
17 had mentioned this book. And I don't know where he got this
18 book. I have no idea at all.
19 Q. Do you recall when it was that he mentioned to you
20 the book, Pendas?
21 A. It was probably some time in -- that had to be in
22 July.
23 Q. Prior to the school board meeting?
24 A. Yeah, that had to be.
25 Q. And then you stated that you got a copy of the book

Jane Cleaver 6/9/05

Page 50

00048

1 from Mr. Buckingham?
2 A. I didn't get a copy, he gave me the book. And I
3 read the book, and gave it right back to him.
4 Q. You stated that you didn't feel that the book
5 should be taught in school.
6 A. No. It should not be taught in school.
7 Q. What was it about the book that you felt should not
8 be taught in school?
9 A. In the first place, the book I felt should not --
10 from the 9th grade to 12th grade student might understand
11 some of it, but not anyone -- not students younger than that.
12 And again, it's just another theory. So -- but I felt that
13 our students deserve the opportunity if they wanted to pursue
14 anything, there is so many different theories out there, that
15 they should have another book if they wanted to look at it.
16 Q. Okay. You're referring to other theories. What do
17 you mean when you're saying, "other theories"?
18 A. Well, there are -- the word, "creationism" was
19 brought up. Well, creationism, I don't believe should ever
20 be taught in school. And they had no intentions of teaching
21 creationism.
22 Q. When you say the word, "creationism" was brought
23 up, who do you mean brought it up?
24 A. That was when Bert Spahr was up and said that we
25 were going to teach creationism.

Jane Cleaver 6/9/05

Page 51

00049
 1 Q. And in your recollection this was in the same July
 2 meeting?
 3 A. (Witness nodded head.)
 4 Q. Do you recall how anyone responded to Ms. Spahr's
 5 statement that she felt they were going to be asked -- "they"
 6 being the teachers, were going to be asked to teach
 7 creationism?
 8 A. She -- in Ms. Spahr's mind, I think what happened,
 9 she was so sure that this is what they were going to be asked
 10 to do, but she was reassured by Alan Bonsell and Mr. Nilsen
 11 that they would not be asked to teach any of this, they are
 12 not going to be teaching any other theory. But if the book
 13 is available for the students, that's the only thing that --
 14 that is the only thing that I was concerned about, giving our
 15 students another opportunity if there was a different theory
 16 out there that they want to look at, that they have that
 17 opportunity.
 18 Q. When you say, "other theory," am I correct in
 19 saying that you mean as opposed to evolution?
 20 A. Yes.
 21 Q. Okay. Did you ever consider -- you said there's
 22 several other theories out there. What other theories do you
 23 understand are out there other than evolution?
 24 A. Well, I'm not a scientist, by far. And I don't
 25 know. But I feel there is something else out there. There's

Jane Cleaver 6/9/05

Page 52

00050
 1 other -- I feel, Chris, that if our students only have one
 2 theory being taught to them, that theory soon becomes a
 3 fact because that's the only theory that student knows. Why
 4 not give that student the opportunity -- there's other
 5 theories out there, and I surely can't name them; as I said,
 6 I'm not a scientist. But I think there's some -- should be
 7 some research done on that to give our students the
 8 opportunity to learn if they want to.
 9 Q. Were there any other science theories other than
 10 evolution for which you felt the students should be exposed
 11 to alternatives?
 12 A. No. I couldn't name one. Because as I said, I
 13 know there's others out there because we certainly have the
 14 greatest scientists in world, so there's other theories
 15 there.
 16 Q. Okay. But let's say, okay -- and I'm not a
 17 scientist, either. I can't speak for these two here,
 18 probably there's no scientists; we're probably all on about
 19 equal ground here. There's several different theories taught
 20 in science classes, nuclear theory, evolutionary theory.
 21 Evolutionary theory is one theory that's taught, then there's
 22 other theories that have nothing to do with evolution that
 23 are also taught. Did you have issue with any other theories
 24 taught in science classes?
 25 A. No.

Jane Cleaver 6/9/05

Page 53

00051
 1 Q. Is there any reason why evolution presented a
 2 problem to you?
 3 A. Yes, it is. Because I just have the feeling that
 4 there's something else out there. I certainly don't believe
 5 there's never been a proven fact with evolution in evolution.
 6 There has to be something out there, there has to be other
 7 theories there that our students can be made aware of. And
 8 if they're not taught, it's fine; but if the books are
 9 available, that's what should happen.
 10 Q. Okay. So at this time during the July meeting,
 11 what was your understanding of what the school board wanted
 12 from the science teachers with respect to the teaching of
 13 other theories?
 14 A. The school board asked nothing of the teachers as
 15 far as teaching the students any other theory. The only
 16 thing the school board asked was that the teachers would be
 17 willing to have a book there that the student if they wanted
 18 to could pursue another theory, could look at it.
 19 Q. Now, when you had spoke earlier about your review
 20 of the textbook, Pandas, do you recall what theory, if any,
 21 was presented by Pandas?
 22 A. No, I don't. And I'm going to say this to you.
 23 For me, it was a little hard, I would have had to take time
 24 and sit down with that book and really read it in order to
 25 get anything out of it. Because I know nothing about --

Jane Cleaver 6/9/05

Page 54

00052
 1 about the book as far as that. I knew nothing. And the
 2 book -- that's why I said a student from the 9th to the 12th
 3 grade would probably be able to understand it better than
 4 what I would, truthfully.
 5 Q. Other than your concern with the fact that the
 6 textbook may be hard for some students to understand, did you
 7 have any other concerns with respect to the textbook?
 8 A. No.
 9 Q. And by, "textbook," I'm referring to the, Pandas
 10 textbook?
 11 A. No. No, sir, I should say.
 12 Q. So we're in July and you understand that this is --
 13 you had not too much previous to this July meeting become
 14 aware of this textbook, Pandas, you reviewed the textbook and
 15 Ms. Spahr had a few things to say at the school board
 16 meeting, and this was the last school board you attended
 17 prior to the October meeting?
 18 A. Correct.
 19 Q. Let's move ahead, then, to October. I have a date
 20 in front of me as October 4th for that school board meeting.
 21 Does that sound right to you?
 22 A. Yes, sir.
 23 Q. Do you recall anything occurring in that October
 24 4th school board meeting with respect to the biology
 25 textbook?

Jane Cleaver 6/9/05

Page 55

00053

1 A. There was a lot of discussion.
 2 Q. Okay. By, "a lot of discussion," do you recall who
 3 was involved in these discussions?
 4 A. Again, Bert Spahr. And she had other teachers
 5 there, but I don't know the teachers' names. She had other
 6 people there to speak on her behalf. But I don't recall who
 7 they were anymore.
 8 Q. Do you recall what it was that they discussed at
 9 that time? By, "they," I mean Ms. Spahr and other teachers.
 10 A. There was a statement -- and I don't really know
 11 how this statement -- the -- and I don't know if this came
 12 from Alan or from Dr. Nilsen about referring to the book and
 13 letting the students know that there was a book there. But
 14 it was -- I don't know how the statement read. You'll
 15 probably come across that, too. And the teachers didn't feel
 16 that they wanted to read this statement, so -- and I didn't
 17 know how that was settled because it was not settled when I
 18 left.
 19 Q. So, you're referring to a statement. By,
 20 "statement," are you referring to a statement that the
 21 teachers were going to be asked to read to their classes?
 22 A. Right.
 23 Q. Or that someone was going to be asked to read to
 24 classes?
 25 A. Uh-huh.

Jane Cleaver 6/9/05

Page 56

00054

1 Q. Prior to this October meeting, were you aware of
 2 any such statement?
 3 A. No, sir. No, sir. I don't recall that.
 4 Q. Was your first exposure to this statement during
 5 the school board meeting?
 6 A. October -- yes. That was in October.
 7 Q. And was it through Ms. Spahr's comments that you
 8 first became aware of this statement?
 9 A. I became aware of that statement when it was
 10 discussed at the school board meeting and Ms. Spahr was up at
 11 the -- and there was also another teacher, I remember, got up
 12 and spoke that she didn't feel that they should be made to --
 13 in fact, I -- I thought I remember -- I can almost picture
 14 her face, but can't get a name to it, so --
 15 MR. LOWE: That's okay. What I have in front
 16 of me -- what I'm going to show you in one second -- is a
 17 copy of the Complaint which was filed in this action. Inside
 18 this Complaint is what I believe to be the statement that
 19 you're referring. I'm going to give you this Complaint -- if
 20 we could mark this as an exhibit, please -- and ask you to
 21 take a second to read it, and then we'll discuss it.
 22 MR. WHITE: Just so I understand, you're talking
 23 about which paragraph?
 24 MR. LOWE: We are on Page 13 of the Complaint --
 25 wait, let me -- actually, we're on Page 14 of the Complaint,

Jane Cleaver 6/9/05

Page 57

00055

1 and we are in Paragraph 33.
 2 MR. WHITE: What was your question about Paragraph
 3 13?
 4 MR. LOWE: If you could read that paragraph and
 5 then just let me know if this sounds like the statement that
 6 you were referring to.
 7 THE WITNESS: Yes, I do recall. Yes, I do recall
 8 that. That is the statement I'm referring to.
 9 MR. LOWE: Okay.
 10 BY MR. LOWE:
 11 Q. And I'm going to read the statement into the
 12 record. The statement reads: Students will be made aware of
 13 gaps, problems in Darwin's theory and other theories of
 14 evolution including but not limited to intelligent design,
 15 note, origins of life is not taught. Did I read that
 16 correctly?
 17 A. Correct.
 18 Q. Okay. So, this is a statement that you recall
 19 being discussed at the October 6th board meeting?
 20 A. 4th.
 21 Q. 4th, the first October board meeting?
 22 A. Uh-huh.
 23 Q. And when Ms. Spahr brought this up, it was the
 24 first time you aware of the statement?
 25 A. That's correct.

Jane Cleaver 6/9/05

Page 58

00056

1 Q. Do you remember any specific discussions with
 2 respect to this statement other than Ms. Spahr's comment that
 3 she didn't feel the teachers should be ordered to read it?
 4 MR. WHITE: Objection: You're Assuming that this
 5 is the statement that's read to students.
 6 MR. LOWE: That's fine.
 7 MR. WHITE: Okay. She says she's not aware of
 8 anything like that.
 9 THE WITNESS: No, sir.
 10 BY MR. LOWE:
 11 Q. Do you recall any other discussions at that board
 12 meeting other than the discussion that Ms. Spahr initiated
 13 with respect to a statement?
 14 A. No, I do not. Hub-uh.
 15 MR. LOWE: And I believe she did say this was a
 16 statement that she understood was being discussed.
 17 MR. WHITE: Right. But you had asked if this was
 18 what was read to the students. She said she wasn't around
 19 after October --
 20 MR. LOWE: Fair enough.
 21 MR. WHITE: -- nor does she have knowledge that
 22 this was a statement that's read to students, just a
 23 statement they were discussing at that meeting.
 24 MR. LOWE: Fair enough.
 25 MR. WHITE: Is that accurate?

Jane Cleaver 6/9/05

Page 59

00057

1 THE WITNESS: That's right. I don't know how the
2 outcome came out of this, with this.

3 MR. LOWE: In fact, I'm glad you caught that,
4 because what we're actually looking at --

5 MR. WHITE: You're looking at the curriculum.

6 MR. LOWE: Exactly. We're looking at the
7 curriculum change there. That was how the curriculum was
8 going to be changed. So, let me ask you a couple questions
9 about that.

10 THE WITNESS: Okay.

11 BY MR. LOWE:

12 Q. That specific statement with respect to the
13 curriculum change, was there any discussion at the school
14 board meeting -- we're talking the first school board meeting
15 in October -- with respect to the curriculum change that's
16 noted in Paragraph 33 in front of you?

17 A. Yes, it was.

18 Q. And what was the discussion surrounding the
19 curriculum change?

20 A. Again, it was -- it was about reading -- that the
21 teachers should read this to the students -- should read this
22 statement to the students.

23 Q. Okay. Let's turn, if you would, to Page 16 of the
24 Complaint and Paragraph 40. If you'd take a minute or two,
25 please, just to read Paragraph 40.

Jane Cleaver 6/9/05

Page 60

00058

1 MR. WHITE: You want her to go to the next page?

2 MR. LOWE: Yes. Page 17 concludes that.

3 BY MR. LOWE:

4 Q. So, there's two -- and I understand it's been a
5 long time since you've really thought too much about any of
6 this. And I'm just trying to make sure that we're clear on
7 what it is we're discussing. In fact, I was a little unclear
8 before myself. But there are two different statements that I
9 just had you read, one which I'm referring to as a statement,
10 that is actually to change the biology curriculum, and the
11 second is the statement that the teachers were asked to read
12 in class or that someone was, you know, presented to read in
13 class. Okay. Now, you had mentioned that Ms. Spahr had
14 stated her concerns with reading a statement to class. When
15 saying that, which statement is it that you're referring to?

16 MR. WHITE: If you know.

17 THE WITNESS: What's that?

18 MR. WHITE: I said, if you know. You can look this
19 over.

20 THE WITNESS: You know, I've read both of them and
21 I don't really know -- I don't really know. Truthfully, I
22 don't.

23 MR. LOWE: That's fine. That's fine.

24 THE WITNESS: I'm going to say, truthfully, I don't
25 recall.

Jane Cleaver 6/9/05

Page 61

00059

1 BY MR. LOWE:

2 Q. Do you recall discussions about a statement that
3 would be read to the science classes at this early October
4 board meeting?

5 A. Yes. I do know that there was a statement that was
6 supposed to be read.

7 Q. Do you also recall discussions regarding the change
8 to the biology curriculum at that board meeting?

9 A. I don't recall of any changes that was made up
10 until that point. There may have been after I left, but I
11 don't recall.

12 Q. Do you recall voting on the change in the biology
13 curriculum?

14 A. Yes, I do.

15 Q. And do you recall how you voted?

16 A. I voted that it should be changed.

17 Q. Moving forward to the second meeting in October.

18 A. Uh-huh. Yes, sir.

19 Q. Do you recall anything -- any discussions with
20 respect to the biology textbook in the second meeting in
21 October?

22 A. There was -- there was quite a bit of discussion.
23 But what was said, I surely can't remember.

24 Q. Do you remember whether there were any discussions
25 about the textbook, Pandas at that meeting?

Jane Cleaver 6/9/05

Page 62

00060

1 A. I think there was some discussion on that.

2 Q. Do you recall anything at all about the nature of
3 those discussions?

4 A. The last meeting that I was at, this is what I
5 recall, Pandas and People. The discussion was that this book
6 was to be given to the school by a group of people, but I
7 don't know the group of people.

8 Q. Prior to that discussion at your last meeting which
9 I take it was the last meeting in October?

10 A. Correct, sir.

11 Q. Do you recall any prior discussions with respect to
12 the donations of the Pandas textbook?

13 A. I had heard about the donations, but again, I don't
14 know where the donations came from.

15 Q. Do you recall any discussions between members of
16 the school board about how they would obtain copies of the
17 textbook, Pandas?

18 A. The only discussion I remember is that I heard
19 about -- there was someone going to donate these books to the
20 school that didn't cost the school any money to get these
21 books. That's the only thing. But I don't know who the
22 group is.

23 Q. Jeff Brown had previously testified that during a
24 discussion between members of the school board, both you and
25 Alan Bonsell had stated that you would be willing to be put

Jane Cleaver 6/9/05

Page 63

00061

1 down as donors of the textbook. Do you recall that?

2 A. I was asked if I would be -- if I would be willing
3 to have those -- if -- not -- I was not going to be a donor
4 of the book, no, that's wrong.

5 Q. Okay.

6 A. I was not giving one penny towards that book. But
7 if they -- if someone was donating it, I had no objections.

8 Q. Okay. So, you didn't volunteer to donate books,
9 but rather you stated that you had no objection if someone
10 else were to donate these books?

11 A. Correct.

12 Q. Okay. Understood. Now, according to Mr. Brown, at
13 least one of these discussions occurred in August. Do you
14 recall having any of these discussions in August?

15 MR. WHITE: August of what year?

16 MR. LOWE: August of 2004.

17 THE WITNESS: No, sir. I was not there.

18 BY MR. LOWE:

19 Q. This was when you were in --

20 A. (Witness nodded head.)

21 Q. Okay. So, between the June meeting when -- after
22 you had reviewed the textbook, Pandas, and coming back in
23 October, you don't recall having any discussions with respect
24 to, Pandas?

25 A. Not at all.

Jane Cleaver 6/9/05

Page 64

00062

1 Q. Okay. We're getting there. We are just about
2 done. I'm going to ask a general catch-all statement, but I
3 think this might help to bring a close to your recollection
4 of the meetings. Please correct me if I'm saying anything
5 that you don't believe is completely accurate, and if you
6 want to correct me, too.

7 A. Okay.

8 Q. My understanding, then, at this time is that other
9 than the limited statements made by Ms. Spahr concerning --
10 I'm going to write this as I'm saying it because I want to
11 make sure I get it right -- concerning the fact that she
12 felt, first, that they may not be receiving biology
13 textbooks, also that she was concerned with something the
14 teachers may be required to read in class, and finally, a
15 concerning she may have had with respect to teaching
16 creationism early on. Do you recall anything else being
17 discussed with respect to the biology text or the biology
18 curriculum?

19 A. No, sir.

20 Q. Okay. At this point I have that those are your
21 three basic concerns, and I know that we may have talked
22 about those in different ways. But it sounds to me -- I'm
23 just trying to summarize. Then moving to the final meeting
24 in October, and once again, I understand that you're -- the
25 meetings may blend a little bit to you, but was it in the

Jane Cleaver 6/9/05

Page 65

00063

1 final meeting in October where you voted to pass the change
2 in the biology curriculum?

3 A. Yes.

4 Q. But at this time you don't recall there being a
5 statement that the teachers were going to be asked to read to
6 the class?

7 A. No, sir.

8 Q. And do you remember any discussions with respect to
9 the change in the curriculum that may have -- had the change
10 be very similar to what you have in front of you which again
11 is Page 14 of the Complaint, Paragraph 33, but with the --
12 with the removal of the term, "intelligent" design?

13 MR. WHITE: I'm confused. Can you ask the question
14 again?

15 MR. LOWE: Then it must have been a confusing
16 question.

17 BY MR. LOWE:

18 Q. Was there any discussion to changing the curriculum
19 in a way that intelligent design wouldn't be included in the
20 change?

21 A. My understanding was that intelligent design would
22 not be used in the curriculum at all.

23 Q. Was it your understanding that intelligent design
24 would be in the wording of the curriculum as it is here?

25 A. No.

Jane Cleaver 6/9/05

Page 66

00064

1 Q. So, your understanding was that there would be no
2 mention of intelligent design?

3 A. No. Intelligent design was not going to be
4 mentioned.

5 Q. Would you have voted for a change in which
6 intelligent design would have been mentioned?

7 MR. WHITE: Can you clarify what you mean by,
8 "mentioned"?

9 BY MR. LOWE:

10 Q. In which intelligent design would have been
11 included in the curriculum?

12 A. Truthfully, I don't know what intelligent design --
13 what theory that would be. To me, it's some kind of a
14 scientific theory, and I don't understand it. So no, I
15 wouldn't not have voted.

16 Q. [REDACTED] I don't know who came up with those two
17 [REDACTED] I don't know who came up with those two
18 [REDACTED] I don't know who came up with those two
19 [REDACTED] I don't know who came up with those two
20 [REDACTED] I don't know who came up with those two
21 [REDACTED] I don't know who came up with those two
22 [REDACTED] I don't know who came up with those two
23 [REDACTED] I don't know who came up with those two
24 [REDACTED] I don't know who came up with those two
25 Q. Okay. [REDACTED]

Jane Cleaver 6/9/05

Page 67

00065
 1 did you do any research whatsoever with
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 Q. So --
 17 MR. WHITE: And also just for the record, she
 18 previously testified she had read through the book, Of Pandas
 19 and People, however. Is that what you're including in your
 20 questions about research?
 21 MR. LOWE: Actually, no. I understand your point.
 22 BY MR. LOWE:
 23 Q. Intelligent design is discussed in the textbook, Of
 24 Pandas and People. When you were reading through the
 25 textbook, Of Pandas and People, do you recall coming across

Jane Cleaver 6/9/05

Page 68

00066
 1 the term, "intelligent design?"
 2 A. No, I don't.
 3 Q. [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 Q. What is your background with respect to evolution?
 8 A. I'll say my -- this is my thinking, evolution to me
 9 is something that evolves in the same as living things. I
 10 don't have no other meaning. I just -- evolution is just
 11 something that evolves and it -- that's it.
 12 Q. [REDACTED]
 13 [REDACTED]
 14 [REDACTED]
 15 [REDACTED]
 16 [REDACTED]
 17 Q. [REDACTED]
 18 [REDACTED]
 19 [REDACTED]
 20 [REDACTED]
 21 [REDACTED]
 22 [REDACTED]
 23 [REDACTED]
 24 Q. [REDACTED]

Jane Cleaver 6/9/05

Page 69

00067
 1 [REDACTED]
 2 [REDACTED]
 3 [REDACTED]
 4 [REDACTED]
 5 [REDACTED]
 6 [REDACTED]
 7 [REDACTED]
 8 [REDACTED]
 9 [REDACTED]
 10 [REDACTED]
 11 [REDACTED]
 12 [REDACTED]
 13 Q. And I believe you stated that your understanding of
 14 the Pandas book, it came from Mr. Buckingham but you don't
 15 recall where he got it from?
 16 A. I do not know to this very day where he had got
 17 that book.
 18 MR. LOWE: Give me one quick second. I think
 19 I'm -- just want to quickly review my notes.
 20 MR. WHITE: Let's go off the record for a few
 21 minutes, stretch your legs and then come back.
 22 MR. LOWE: Sure.
 23 (Short recess.)
 24 MR. LOWE: Back on the record. I have no further
 25 questions.

Jane Cleaver 6/9/05

Page 70

00068
 1 MR. WHITE: She wanted to clarify something. You
 2 had said that you didn't want the words, "intelligent design"
 3 mentioned to the students. What did you mean by that?
 4 THE WITNESS: I meant that I didn't want the
 5 students to be taught intelligent design. I said, mention.
 6 I didn't -- I don't want the students to be taught.
 7 MR. LOWE: Okay.
 8 THE WITNESS: Intelligent design.
 9 MR. WHITE: And she is going to want to review the
 10 transcript.
 11 MR. LOWE: Okay. Yes, we need it.
 12 MR. WHITE: Same here. Let me know when it's ready
 13 so I know when she gets it so she can get it done in 30 days.
 14 (The deposition was concluded at 2:48 p.m.)
 15
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 17
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 21
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 25

Jane Cleaver 6/9/05

Page 71

00069

1 CERTIFICATE OF OATH

2

3 STATE OF FLORIDA)

4 COUNTY OF POLK)

5

6

7

8 I, the undersigned authority, certify that

9 the witness in this matter personally appeared before me and

10 was duly sworn on the 10th day of June, 2005.

11

12 WITNESS my hand and official seal this 10th day of

13 June, 2005.

14

15

16

17

18 Evelyn M. Adrean, RPR

19 Notary Public

20 State of Florida at Large

21 My Commission Number: DD 360489

22 Expires: October 5th, 2008

23

24

25

Jane Cleaver 6/9/05

Page 72

00070

1 CERTIFICATE OF REPORTER

2

3 STATE OF FLORIDA)

4 COUNTY OF POLK)

5

6 I, Evelyn M. Adrean, RPR, certify that I was

7 authorized to and did stenographically report the deposition;

8 that a review of the transcript was requested; and that the

9 foregoing pages are a true and complete record of my

10 stenographic notes taken during said deposition.

11

12 I further certify that I am not a relative,

13 employee, attorney, or counsel of any of the parties, nor am

14 I a relative or employee of any of the parties' attorneys or

15 counsel connected with the action, nor am I financially

16 interested in the action.

17

18 Dated this 10th day of June, 2005.

19

20

21 Evelyn M. Adrean RPR

22 Notary Public

23 State of Florida at Large

24 My Commission Number: DD 360489

25 Expires: October 5th, 2008

Jane Cleaver 6/9/05

Page 73

00071

1 SIGNATURE PAGE/ERRATA SHEET

2 WITNESS: ELMIRA JANE CLEAVER

3 DATE: June 9, 2005

4 CASE REFERENCE: Tammy Kitzmiller, et al. vs Dover Area

5 School District, et al.

6 CASE NO.: 4-CV-04-2688

7 After you have read your transcript, please note

8 any errors, amendments or changes on this page. Do not mark

9 on the transcript itself. Please sign and date this sheet as

10 indicated below. If additional lines are required for

11 corrections, attach additional sheets. If no corrections,

12 please indicate "None."

13

14

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25

I have read my transcript and subscribe to its accuracy, to
include the corrections or amendments noted above or hereto
attached.

Signature of Witness: Date

Jane Cleaver 6/9/05

Page 74

00072

1 ESQUIRE DEPOSITION SERVICES

2 Suite 1080, Bank of America Plaza

3 101 East Kennedy Boulevard

4 Tampa, Florida 33602

5 (813) 221-2535

6 June 10, 2005

7 Elmira Jane Cleaver

8 5700 CR 630 A

9 Lot 8

10 Frostproof, Florida 33843

11 RE: Tammy Kitzmiller, et al, vs Dover Area School District,

12 et al.

13 Dear Ms. Cleaver:

14 Please take notice that on June 9, 2005, 2005 you gave your

15 deposition in the above-referenced matter. At that time, you

16 did not waive signature.

17 As a professional courtesy, I am enclosing a condensed copy

18 of your deposition transcript.

19 At Page 66, you will find an errata sheet. Any corrections

20 that you wish to make should be noted on said sheet, citing

21 page and line number of said correction. Do NOT write on the

22 transcript, itself.

23 Once you have completed this, sign the errata sheet and

24 return it in the self-addressed envelope that has been

25 provided. You need not return the entire transcript.

If you do not read and sign the transcript within 30 days,

the original may be filed with the Clerk of the Court.

If you now wish to waive signature, please sign your name on

the line below and return this letter to us.

Sincerely,

Evelyn M. Adrean

Registered Professional Reporter

I do hereby waive my signature:

Witness name: Date:

cc: Via transcript: Edward L. White, III, Esquire

Jane Cleaver 6/9/05

Page 75